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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/417,774	10/14/1999	JOHN M. MARYNOWSKI	048289-5002	7919

9629 7590 01/28/2003

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

EXAMINER

FELTEN, DANIEL S

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 01/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/417,774

Applicant(s)
Marynowski et al

Examiner
Daniel Felten

Art Unit
3624



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Oct 31, 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

DETAILED ACTION

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3 1. Receipt of the Amendment filed October 31, 2002 amending claims 32 and 36 is
4 acknowledged. Claims 1-46 remain pending in the application and are presented to be
5 examined upon their merits.
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8 ***Claim Rejections - 35 USC § 101***
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10 2. 35 U.S.C. 101 reads as follows:

11 Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
12 matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
13 conditions and requirements of this title.
14

15 3. Claims 27-⁴⁶~~47~~ are rejected under 35 U.S.C. 101 because of lack of technical basis
16 within the body of the independant claim(s). Although it may be shown within the specification
17 that such technical basis exists, the presented claims disclose no technical basis within the body
18 of the claim(s), and can be interpreted as mere manipulation of abstract ideas, rather than, as
19 required within the Business Method art, having a computer/automated-related functional
20 relationship with a tangible result.
21
22

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 2 recites the limitation "the current price information" in 2. There is insufficient antecedent basis for this limitation in the claim.

6. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim cites the limitation of an n-dimensional data structure, "where n is 3 or more". The phrase "more" is ambiguous because an artisan of ordinary skill would not know the boundaries of such a limitation.

7. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims cites the limitation of, "...receives market price information for the first traded item indirectly from the exchange via an exchange interface..". This limitation

1 is ambiguous because it is not understood how the market price information for the first traded
2 item is received from the exchange. What does *indirectly* mean functionally?

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5 **Conclusion**

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8 8. Any inquiry concerning this communication or earlier communications from the examiner
9 should be directed to **Daniel S. Felten** whose telephone number is (703) 305-0724. The
10 examiner can normally be reached between the hours of 7:00AM to 5:30PM Monday-Thursday.
11 Any inquiry of a general nature relating to the status of this application or its proceedings should
12 be directed to the Customer Service Office (703) 306-5631, or the examiner's supervisor
13 **Vincent Millin** whose telephone number is (703) 308-1065.

14
15 9. Response to this action should be mailed to:

16
17 Commissioner of Patents and Trademarks

18 Washington, D.C. 20231

19
20 for formal communications intended for entry, or (703) 305-0040, for informal or draft
21 communications, please label "Proposed" or "Draft".

22 Communications via Internet e-mail regarding this application, other than those under 35
23 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be
24 addressed to *[daniel.felten@uspto.gov]*.

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Representative: ()

1 All Internet e-mail communications will be made of record in the application file. PTO
2 employees do not engage in Internet communications where there exists a possibility that
3 sensitive information could be identified or exchanged unless the record includes a properly
4 signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly
5 set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and
6 Trademark on February 25, 1997 at 1 195 OG 89.

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10 DSF

11 January 24, 2003


VINCENT MILLIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600